

PT 02-13

Tax Type: Property Tax

Issue: Religious Ownership/Use

**STATE OF ILLINOIS
DEPARTMENT OF REVENUE
OFFICE OF ADMINISTRATIVE HEARINGS
SPRINGFIELD, ILLINOIS**

NORTH LOVE BAPTIST CHURCH)	A.H. Docket #	01-PT-25
OF ROCKFORD)	Docket #	00-101-147
Applicant)		
v.)	Parcel Index #	12-04-327-003
)		
THE DEPARTMENT OF REVENUE)	Barbara S. Rowe	
OF THE STATE OF ILLINOIS)	Administrative Law Judge	

RECOMMENDATION FOR DISPOSITION

Appearances: Mr. Kent Steinkamp, Special Assistant Attorney General for the Illinois Department Of Revenue; Mr. David Reid, Reid Law Office for North Love Baptist Church of Rockford.

Synopsis:

The hearing in this matter was held on September 4, 2001, to determine whether or not Winnebago County Parcel Index No. 12-04-327-003 qualified for a property tax exemption during the 2000 assessment year.

Pastor Paul Kingsbury, Senior Pastor of the North Love Baptist Church of Rockford, (hereinafter referred to as the "Applicant"), Freeman Goodge, missionary, and Douglas Stodola, business manager, custodian, and Sunday school teacher were present and testified on behalf of the applicant.

The issues in this matter include: first, whether the applicant was the owner of the parcel during the 2000 assessment year; secondly, whether the applicant is a religious organization; and lastly, whether the parcel was used by the applicant for exempt purposes during the 2000 assessment year. After a thorough review of the facts and law presented, it is my

recommendation that the requested exemption be granted. In support thereof, I make the following findings and conclusions in accordance with the requirements of Section 100/10-50 of the Administrative Procedure Act (5 ILCS 100/10-50).

FINDINGS OF FACT:

1. The jurisdiction and position of the Department that a portion of Winnebago County Parcel Index No. 12-04-327-003 did not qualify for a property tax exemption for the 2000 assessment year was established by the admission into evidence of Dept. Ex. No. 1. (Tr. p. 8)

2. On December 15, 2000, the Department received the request for exemption of Winnebago Parcel Index No. 12-04-327-003. Located on the 15.26 acres are applicant's church, school, parsonage with garage, gymnasium, bus barn, and two classroom buildings. (Dept. Ex. No. 1)

3. Upon receipt of the application, the Department sent the applicant its Parsonage/Convent Questionnaire. In response to question no. 1: "Is the minister/nuns required, as a condition of employment or association, to reside in the parsonage/convent?" the applicant responded "no." In response to question no. 6: "What duties, if any (whether religious or administrative), are performed in the parsonage/convent itself? What is the frequency of these duties?" the applicant responded "none." In response to question no. 8 "Is any room or other designated area in the parsonage/convent used primarily by the minister/nuns or others for performing church functions or religious instruction?" the answer was "no." (Dept. Ex. No. 1)

4. On March 1, 2001, the Department issued the Non-Homestead Property Tax Exemption Certificate finding the exemption approved except for the parsonage, garage, the land on which they stand, and the yard area are taxable. On March 20, 2001, the applicant timely protested the denial and requested a hearing. The hearing on September 4, 2001, was held pursuant to that request. (Dept. Ex. No. 1)

5. The applicant acquired properties by a warranty deed dated July 16, 1968, a warranty deed dated April 4, 1974, and a trustee's deed dated July 18, 1977. Bisecting applicant's properties is Collins Road. The City of Rockford vacated the 5300 block of Collins Road by Vacation Ordinance 1997-120-0 on June 16, 1997. Title to the property vested in the abutting property owner, the applicant. (Dept. Ex. No. 1)

6. The applicant has owned the parsonage on the property at issue for the last 25 years. Licensed and ordained ministers of the applicant have always occupied the premises. The applicant's church employs thirty full-time staff members in the ministry area. The applicant has never rented the property. (Dept. Ex. No. 1; Tr. pp. 19, 24-26, 32)

7. Missionary Pastor Freeman Goodge has occupied the parsonage since 1999. Pastor Goodge has a graduate degree in theology from Tennessee Temple University in Chattanooga, Tennessee. (Tr. pp. 34, 37-39)

8. Pastor Goodge has been a minister in America, the West Indies, and Great Britain. The applicant started supporting Pastor Goodge about 32 years ago. (Tr. pp. 34-35)

9. Pastor Goodge is not employed by applicant's church. He is the Missions Coordinator and responsible for the Visitation Program of the applicant. He is a member of the church and fills the pulpit in the absence of the senior pastor. In the parsonage on the subject parcel, Pastor Goodge studies for the sermons he presents, contacts missionaries on a regular basis for the applicant, occasionally hosts visiting ministers and pastors, and counsels church members and non-church members on spiritual matters. (Dept. Ex. No. 1; Tr. pp. 23, 26-28, 41-42, 49)

10. The applicant has multiple ministries, a private school, an addictions recovery program, and missions around the world that it supports financially and prayerfully. At the time of the hearing the applicant had missionaries that it sponsored in about 45-50 different countries. (Dept. Ex. No. 1; Tr. p. 14)

11. The parsonage at issue is an 1110 square foot house with a lower level and a garage. It is adjacent to applicant's church building. The lower level is a storage area for school

and church supplies as well as items used for applicant's benevolence fund. Food, diapers, and assorted essential items are stored there and are available for distribution by the applicant to the needy. (Tr. pp. 16-17, 26, 40-41)

12. The driveway, yard, and parking area are used each week for overflow parking for applicant's church services. (Tr. p. 17)

CONCLUSIONS OF LAW:

Article IX, §6 of the Illinois Constitution of 1970, provides in part as follows:

The General Assembly by law may exempt from taxation only the property of the State, units of local government and school districts and property used exclusively for agricultural and horticultural societies, and for school, religious, cemetery and charitable purposes.

This provision is not self-executing but merely authorizes the General Assembly to enact legislation that exempts property within the constitutional limitations imposed. City of Chicago v. Illinois Department of Revenue, 147 Ill.2d 484 (1992)

It is well settled in Illinois that when a statute purports to grant an exemption from taxation, the tax exemption provision is to be construed strictly against the one who asserts the claim of exemption. International College of Surgeons v. Brenza, 8 Ill.2d 141 (1956) Whenever doubt arises, it is to be resolved against exemption and in favor of taxation. People ex rel. Goodman v. University of Illinois Foundation, 388 Ill. 363 (1941). Further, in ascertaining whether or not a property is statutorily tax exempt, the burden of establishing the right to the exemption is on the one who claims the exemption. MacMurray College v. Wright, 38 Ill.2d 272 (1967)

Pursuant to the authority granted by the Constitution, the legislature has enacted exemptions from property tax. At issue is the religious exemption found at 35 ILCS 200/15-40. That portion of the statutes exempts certain property from taxation in part as follows:

§ 15-40. Religious purposes, orphanages or school and religious purposes.
All property used exclusively for religious purposes, or used exclusively for

school and religious purposes, or for orphanages and not leased or otherwise used with a view to profit, is exempt, including all such property owned by churches or religious institutions or denominations and used in conjunction therewith as housing facilities provided for ministers (including bishops, district superintendents and similar church officials whose ministerial duties are not limited to a single congregation), their spouses, children and domestic workers, performing the duties of their vocation as ministers at such churches or religious institutions or for such religious denominations, and including the convents and monasteries where persons engaged in religious activities reside.

A parsonage, convent or monastery or other housing facility shall be considered under this Section to be exclusively used for religious purposes when the church, religious institution, or denomination requires that the above listed persons who perform religious related activities shall, as a condition of their employment or association, reside in the facility.

Property owned by a church and used as a parsonage or monastery was taxable prior to 1957. See People ex rel. Carson v. Muldoon, 306 Ill. 234 (1922), People ex rel. Pearsall v. Methodist Episcopal Church, 315 Ill. 233 (1925)

The Illinois Supreme Court in McKenzie v. Johnson, 98 Ill. 87 (1983) had an opportunity to address the 1957 amendment to the statute and held that the provision in the amendment granting an exemption for a parsonage used primarily for religious purposes was constitutional. The court also required that the parsonage must reasonably and substantially facilitate the aims of religious worship because the pastor's religious duties required that he live in close proximity to the church or because the parsonage had unique facilities for religious worship and instruction or was primarily used for such purposes.

In Evangelical Alliance Mission v. The Department of Revenue, 164 Ill.App. 3d 431 (2nd Dist. 1987), the court found that an apartment building used by a tax-exempt religious missionary institution for housing for missionaries while on furlough satisfied the statutory requirement for tax exemption for property held for religious purposes. The court stated that the statute does not require that minister for whom the housing is provided be an employee of the church, religious institution, or denomination seeking the exemption. Rather the issue is whether the property is primarily used for religious purposes.

I find the facts in Evangelical Alliance Mission are similar to those before me. Pastor Goodge is a missionary associated with the applicant, although not employed by it, who resides in the parsonage. He uses the residence on the subject property as the place to prepare his sermons, counsel church and non-church members on spiritual matters, contact missionaries on a regular basis for the applicant, and occasionally host visiting ministers and pastors. These are all religious activities done in furtherance of applicant's religious purpose.

The ground floor of the house on the subject property is used for storage of church items. The appellate court of Illinois has determined that property owned by a church and used for storage of church records and furniture qualified for a property tax exemption in Our Savior Lutheran Church v. Department of Revenue, 204 Ill.App. 3d 1055 (5th Dist. 1990), *appeal denied* 136 Ill.2d 546 (1991). The yard is owned by the applicant and used for overflow church parking, a use recognized as exempt under 35 **ILCS** 200/125.

For the foregoing reasons, it is recommended that Winnebago Parcel Index No. 12-04-327-003 be exempt from property taxation for the entire 2000 assessment year.

Respectfully Submitted,

Barbara S. Rowe
Administrative Law Judge
March 14, 2002